THE HONB'E SRI JUSTICE K.C.BHANU

WRIT PETITION No. 11243 of 2005

Date: 06 .09.2005

Between:

Sree Vari Vending Services, Water Vending
Machine, Tirupati Railway Station, Tirupathi
Rep. by Licensee G.Ram Mohan

…Petitioner

and

1) Government of India, Ministry of Railway,
Railway Board, Railway Bhavan, New Delhi,
Rep. by its Executive Director, Passenger Amenities
& 2 others

...Respondents

ORDER:

1. Challenging the action of the third respondent in issuing the letter dated 04.05.2005 withdrawing permission granted to the petitioner to operate the water vending machine at Tirupati Railway Station abruptly without giving any opportunity to petitioner, and to direct the third respondent to grant permission to petitioner to operate water vending machine at Tirupati Station for a period of at least five years,

the present Writ Petition is filed.

2 . It is the case of the petitioner that the petitioner, a small scale industry recognised for the purpose of setting up pure and safe drinking water, was granted permission by the respondents vide letter dated 13.08.2003 for setting up of water vending machine on trial basis for six months, the same was extended from time to time and the last extension granted on 18.12.2004 was valid up to 22.05.2005. Thereafter, in spite of representations by the petitioner, further extension was not granted, though at least five years period was assured earlier. Ultimately, the impugned proceedings were issued withdrawing the permission granted to petitioner and directing it to vacate the premises by 22.05.2005. Hence, the Writ Petition.

3 . Learned counsel for the petitioner contended that the petitioner was granted permission to operate a water vending machine at Tirupati Railway Station; that without giving any notice or opportunity, the permission was withdrawn by the third respondent by the impugned proceedings dated 04.05.2005 and therefore, his action is arbitrary and illegal. He further contended that as per the proposals of the Board dated 24.05.2005, all existing contracts which expired, may be extended up to 31.10.2005 and therefore, the respondents ought to have considered the case of the petitioner in extending the contract up to 31.10.2005.

4 . On the other hand, the learned counsel for the respondents contended that there is no contract between the petitioner and the respondents to run the water vending machine at Tirupati Railway Station; that the licence was given to the petitioner to run the stall on trial basis for a period of six months, which expired in the month of February, 2004; that it can not have any right to continue in the premises since it is not a lease, but only a licence which can be terminated at any time without giving any reasons. He further

contended that the proceedings of the Railway Ministry dated 24.05.2005 apply only to the existing contracts but not to the licensees. Therefore, the Writ Petition is devoid of merits and is liable to be dismissed.

5 . Originally the petitioner was given provisional permission for installation of one water vending machine for selling pure, chilled and safe drinking water in the Concourse of Tirupati Railway Station. One of the terms of the licence was that the period of licence was only for six months and it is purely on trial basis. It is also made clear that the petitioner has to quit and vacate the premises on demand by the Railway Administration. The licence was extended by issuing the proceedings dated 21.05.2004 for another period of six months. Subsequently, the impugned proceedings dated 04.05.2005 were issued by the respondents withdrawing the temporary permission on trial basis for selling pure and safe drinking water through water vending machine at Tirupati Railway Station with effect from 22.05.2005. This order is now under challenge in this Writ Petition saying that no notice or opportunity was given to the petitioner.

6. As seen from the permission dated 13.08.2003, it is clear that it is a licence but not a lease, purely on temporary and trial basis. Since it is a case of licence, no right of the petitioner is being affected because the licensee has to vacate the premises in accordance with the terms of the licence. One of the terms and conditions of the licence is that the petitioner has to quit and vacate the premises on demand by the Railway Authorities. In such a view of the matter, question of violation of principles of natural justice does not arise. The petitioner does not have any substantive right to continue as a licensee for the purpose of selling pure and chilled water at the railway station. In the absence of violation of any legal right, the question of granting Writ of Mandamus does not arise.

7. Though the petitioner relied upon the proceedings of the Railway Ministry dated 24.05.2005 to the effect that all the existing contracts will be extended up to 31.10.2005 subject to satisfactory performance and clearance of all dues, it does not confer any right to the petitioner because it is only circular instructions. Even otherwise, the said circular will apply only to the existing contracts. Since the issue involved in the present Writ Petition is not a contract but only a licence, the said proceedings have no application to the facts of the present case.

8. The Writ Petition is devoid of merits and the same is, accordingly, dismissed.

(K.C.Bhanu, J.)

06.09.2005

DRK